S 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS		DEFENDANTS	DEFENDANTS			
NANCY MELCHER		ALW SOURCIN	ALW SOURCING, LLC			
(b) County of Residence	of First Listed Plaintiff	County of Residence of	of First Listed Defendant			
• •	me, Address, Telephone Number and Email Ad	NOTE: IN LAN	D CONDEMNATION CASES, US	SE THE LOCATION OF THE		
Craig Thor Kimmel, E Kimmel & Silverman,		LAND	INTOLIED.			
30 E. Butler Pike	F.O.	Attorneys (If Known)				
Ambler, PA 19002						
(215) 540-8888						
11. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES(Place an "X" in One Box for Plaintiff (For Diversity Cases Only) and One Box for Defendant)						
□ 1 U.S. Government Plaintiff	M 3 Federal Question (U.S. Government Not a Party)		TF DEF I I I Incorporated <i>or</i> Pr of Business In Thi			
U.S. Government Defendant	☐ 4 Diversity	Citizen of Another State	2 G 2 Incorporated and 8 of Business In a			
o o i o i o i o i o i o i o i o i o i o	(Indicate Citizenship of Parties in Item III)		3 G 3 Foreign Nation	Ø 6 Ø 6		
IV NATUDE OF CUI	T (Place an "X" in One Box Only)	Foreign Country				
CONTRACT	1 (Place an "X in One Box Only)	FORKEITUREPENAUTY	BANKRUPTCY	OTHER STATUTES		
☐ 110 Insurance	PERSONAL INJURY PERSONAL INJU	RY 610 Agriculture	☐ 422 Appeal 28 USC 158	☐ 400 State Reapportionment		
120 Marine 130 Miller Act	☐ 310 Airplane ☐ 362 Personal Injury ☐ 315 Airplane Product Med. Malpract		☐ 423 Withdrawal 28 USC 157	410 Antitrust 430 Banks and Banking		
140 Negotiable Instrument	315 Airplane Product Med. Malpract Liability		28 USC 157	430 Banks and Banking 450 Commerce		
☐ 150 Recovery of Overpayment	☐ 320 Assault, Libel & Product Liabili	ity 🔲 630 Liquor Laws	PROPERTY RIGHTS	☐ 460 Deportation		
& Enforcement of Judgment 151 Medicare Act	Slander G 368 Asbestos Perso 330 Federal Employers' Injury Product		820 Copyrights 830 Patent	470 Racketeer Influenced and Corrupt Organizations		
☐ 152 Recovery of Defaulted	Liability Liability	☐ 660 Occupational	2 840 Trademark	■ 480 Consumer Credit		
Student Loans (Excl. Veterans)	☐ 340 Marine PERSONAL PROPE ☐ 345 Marine Product ☐ 370 Other Fraud	RTY Safety/Health © 690 Other		☐ 490 Cable/Sat TV ☐ 810 Selective Service		
☐ 153 Recovery of Overpayment	Liability 0 371 Truth in Lendin		SOCIAL/SECURITY			
of Veteran's Benefits	O 350 Motor Vehicle	710 Fair Labor Standards	☐ 861 HIA (1395ff)	Exchange		
☐ 160 Stockholders' Suits ☐ 190 Other Contract	☐ 355 Motor Vehicle Property Dama Product Liability ☐ 385 Property Dama		☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g))	© 875 Customer Challenge 12 USC 3410		
☐ 195 Contract Product Liability	360 Other Personal Product Liabili	ly 730 Labor/Mgmt.Reporting	☐ 864 SSID Title XVI	☐ 890 Other Statutory Actions		
☐ 196 Franchise REAL PROPERTY	Injury CIVIL RIGHTS PRISONER PETITION	& Disclosure Act ONS 740 Railway Labor Act	☐ 865 RS1 (405(g)) FEDERAL TAX SUTTS	S91 Agricultural Acts S92 Economic Stabilization Act		
210 Land Condemnation	☐ 441 Voting ☐ 510 Motions to Vac		☐ 870 Taxes (U.S. Plaintiff	893 Environmental Matters		
220 Foreclosure	☐ 442 Employment Sentence	791 Empl. Ret. Inc.	or Defendant)	☐ 894 Energy Allocation Act		
230 Rent Lease & Ejectment 240 Torts to Land	Accommodations U 530 General	Security Act	☐ 871 IRSThird Party 26 USC 7609	O 895 Freedom of Information Act		
O 245 Tort Product Liability	O 444 Welfare O 535 Death Penalty	IMMIGRATION		O 900Appeal of Fee Determination		
☐ 290 All Other Real Property	U 445 Amer. w/Disabilities - U 540 Mandamus & C Employment U 550 Civil Rights	Other 462 Naturalization Application 463 Habeas Corpus -		Under Equal Access to Justice		
	446 Amer. w/Disabilities - 555 Prison Condition	on Alien Detaines		Ø 950 Constitutionality of		
	Other 440 Other Civil Rights	☐ 465 Other Immigration Actions		State Statules		
	The outer strategies	ribiyid				
V. ORIGIN (Place an "X" in One Box Only) R1 Original Proceeding 2 Removed from Appellate Court Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Magistrate Judgment						
	Cite the U.S. Civil Statute under which you 15 U.S.C. Section 1692			y do garant		
VI. CAUSE OF ACTI	ON Brief description of cause: Fair Debt Collection Practices					
VII. REQUESTED IN COMPLAINT:	UNDER F.R.C.P. 23	ON DEMANDS	CHECK YES only JURY DEMAND	rif demanded in complaint: : ☑ Yes ☐ No		
VIII. RELATED CAS	SE(S) (See instructions): JUDGE		DOCKET NUMBER			
Explanation:						
4/16/2010						
DATE // SIGNATURE OF ATTORNEY OF RECORD						
		/				

Case 2:10-cv-01717-CMR Document 1 Filed 04/19/10 Page 2 of 10 UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to assignment to appropriate calendar.	be used by counsel to indicate the category of the case for the purpose of
	ad, E. Fallowfield, PA 19320
Address of Defendant: 1804 Washington Blvd. B	altimore, MD 21230
. 1 .	rch Road E Fallowfield PA 1932
Does this civil action involve a nongovernmental corporate party with any parent corporation	and any publicly held comporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)	
Does this case involve multidistrict litigation possibilities?	Yes D Not
RELATED CASE, IF ANY: Case Number: Judge	Dur Tool and
	Date 1cminated:
Civil cases are deemed related when yes is answered to any of the following questions:	
1. Is this case related to property included in an earlier numbered suit pending or within one y	car previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior action in this court?	suit pending or within one year previously terminated
3. Does this case involve the validity or infringement of a patent already in suit or any earlier a	Yes□ No♥
terminated action in this court?	Yes C No.
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil righ-	
the man are a version of observation into an every assistance may appear, or pro-section (ign)	Yes No
CIVIL: (Place ✓ in ONE CATEGORY ONLY)	
A. Federal Question Cases: 1. Indemnity Contract, Marine Contract, and All Other Contracts	B. Diversity Jurisdiction Cases: □ Insurance Contract and Other Contracts
2. □ FELA	2. Airplane Personal Injury
3. ☐ Jones Act-Personal Injury	3. © Assault, Defamation
4. □ Antitrust	4. Marine Personal Injury
5. 🗆 Patent	5. Motor Vehicle Personal Injury
6. C Labor-Management Relations	6. Other Personal Injury (Please
•	specify)
7. □ Civil Rights	7. □ Products Liability
8. D Habeas Corpus	8. □ Products Liability — Asbestos
9. □ Securities Act(s) Cases	9. □ All other Diversity Cases
10. □ Social Security Review Cases	(Please specify)
11. CAll other Federal Question Cases 15 U.S.C § 1692 (Please specify)	V
ARBITRATION CERT	
Check Appropriate Ca., counsel of record do hereby certif	
☐ Pursuant to Local Civit Rule 53.2, Section 3(c)(2), that to the best of my knowledge and	belief, the damages recoverable in this civil action case exceed the sum of
6150,000.00 exclusive of interest and costs; C Relief other than monetary damages is gought.	
While I have the	871/20
PATE: 4/16/2010 Suig MURKIMME	<u> </u>
NOTE: A trial de novo will be a trial by jury only if then	Attorney I.D.# re has been compliance with F.R.C.P. 38.
certify that, to my knowledge, the within case is not related to any case now pending or vecept as noted above.	within one year previously terminated action in this court
11/11/10/12	57100
DATE: 4/14/2010 CTAIR INCOME	71100
Attorney-at-Law	Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Nancy Melch	ier	: :	CIVIL ACTION		
ALW Source	ing, LLC	: : :	NO.		
filing the complaint and side of this form.) In the designation, that defend	serve a copy on all the event that a de ant shall, with its from parties, a Case M	It I rack Designation of the frack Designation of the frack of the fra	duction Plan of this court, coun on Form in all civil cases at the table 1:03 of the plan set forth on the ragree with the plaintiff regarding both to the clerk of court and set Designation Form specifying the	ime ever g sa	of se id
SELECT ONE OF TH	E FOLLOWING	CASE MANAGEI	MENT TRACKS:		
(a) Habeas Corpus - Ca	ses brought under	28 U.S.C. § 2241 t	through § 2255.	()
(b) Social Security – Ca and Human Services	ses requesting revi denying plaintiff (ew of a decision or Social Security Ber	f the Secretary of Health nefits.	()
(c) Arbitration - Cases r	equired to be desig	gnated for arbitration	on under Local Civil Rule 53.2.	()
(d) Asbestos – Cases inv exposure to asbestos	volving claims for p	personal injury or p	property damage from	()
me court. (See rever	o as complex and t	hat need special οτ	intense management by		
management cases.)				()
(f) Standard Managemen	nt – Cases that do r	not fall into any on	e of the other tracks.	()	0
4/16/2016 Date 215) 540-8888	Craig The Attorney (215) 540	oc Kimmel at-law 1-8817	Nancy Melcher Attorney for Kimmel@creditlaw	CO	<u> </u>
<u>Fel</u> ephone	FAX Nur	nber	E-Mail Address		

(Civ. 660) 10/02

1 UNITED STATES DISTRICT COURT FOR THE 2 EASTERN DISTRICT OF PENNSYLVANIA 3 NANCY MELCHER, 4 Plaintiff, 5 Civil Action No.: v. 6 COMPLAINT AND DEMAND FOR JURY ALW SOURCING LLC TRIAL 7 Defendant. (Unlawful Debt Collection Practices) 8 9 10 11 COMPLAINT 12 NANCY MELCHER ("Plaintiff"), by her attorneys, KIMMEL & SILVERMAN, P.C., 13 alleges the following against ALW SOURCING LLC: 14 15 INTRODUCTION 16 1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 17 U.S.C. § 1692 et seq. ("FDCPA"). 18 19 JURISDICTION AND VENUE 20 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states 21 that such actions may be brought and heard before "any appropriate United States district court 22 without regard to the amount in controversy," and 28 U.S.C. § 1367 grants this court 23 supplemental jurisdiction over the state claims contained therein. 24 3. Defendant conducts business in the State of Pennsylvania and therefore, personal 25 jurisdiction is established. -1-

and correct copy of the February 5, 2010 letter is attached hereto as Exhibit "A".

25

- 17. This was the first written correspondence Plaintiff received from Defendant.
- 18. In this letter Defendant failed to identify itself as a debt collector and indicate that it was attempting to collect a debt.
 - 19. Defendant indicates a balance of \$1,625.30 is due and owing on this account.
- 20. Based on information and belief, even when Plaintiff did maintain an account with Capital One, her balance never reached this figure, and this amount is in excess of the credit limit she had on this credit card.
- 21. There is no indication in the February 5, 2010 letter as to how this alleged amount increased from the balance allegedly still owed to Capital One.
- 22. On February 10, 2010 the telephone calls continued. Specifically, at 1:49pm Plaintiff answered the telephone and received a voice recording indicating to contact "Ron Jackson" and once again provided for the number listed above in paragraph 12.
- 23. Defendant contacted Plaintiff again on February 11, 2010 at 9:18am; February 18, 2010 at 3:51pm; February 22, 2010 at 12:15pm; February 23, 2010 at 2:31pm; February 24, 2010 at 4:40pm; February 26, 2010; February 27, 2010 at 10:33am; March 1, 2010 at 3:55pm; March 2, 2010 at 5:37pm; March 3, 2010 at 3:06pm; March 4, 2010 at 4:34pm; March 6, 2010 at 12:25pm; March 8, 2010 at 10:18am; March 9, 2010; March 10, 2010 at 5:01pm; March 11, 2010 at 3:02pm, March 12, 2010 at 12:18am; March 15, 2010 at 5:00pm; March 16, 2010 at 11:06am; and March 17, 2010 at 8:29am.
 - 24. Defendant also contacted Plaintiff's fiancé in an attempt to discuss the debt.
- 25. Plaintiff never gave Defendant authority to speak with any third parties, including her fiancé, regarding this matter.
- 26. Plaintiff tried on several occasions to call Mr. Jackson to discuss this matter; however the number was always busy.

CONSTRUCTION OF APPLICABLE LAW

- 27. The FDCPA is a strict liability statute. <u>Taylor v. Perrin, Landry, deLaunay & Durand</u>, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages." <u>Russell v. Equifax A.R.S.</u>, 74 F. 3d 30 (2d Cir. 1996); <u>see also Gearing v. Check Brokerage Corp.</u>, 233 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector's legal status violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).
- 28. The FDCPA is a remedial statute, and therefore must be construed liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). "Because the FDCPA, like the Truth in Lending Act (TILA) 15 U.S.C §1601 et seq., is a remedial statute, it should be construed liberally in favor of the consumer." Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).
- 29. The FDCPA is to be interpreted in accordance with the "least sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA was not "made for the protection of experts, but for the public that vast multitude which includes the ignorant, the unthinking, and the credulous, and the fact that a false statement may be obviously false to those who are trained and experienced does not change its character, nor take away its power to deceive others less experienced." Id. The least sophisticated consumer standard serves a dual purpose in that it ensures protection of all consumers, even naive and trusting, against deceptive collection practices, and protects collectors against liability for bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at 1318.

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COUNT I DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

- 30. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:
 - a. Communicating with Plaintiff at a place known to be inconvenient to Plaintiff, specifically repeatedly contacting Plaintiff at her fiancé's phone number, in violation of 15 U.S.C. § 1692c(a)(1).
 - b. Communicating with third parties without prior consent of the consumer, in violation of 15 U.S.C. § 1692c.
 - c. Harassing, oppressing or abusing Plaintiff in connection with the collection of a debt in violation of 15 U.S.C. § 1692d.
 - d. Causing Plaintiff's telephone to ring repeatedly or continuously with intent to annoy, abuse, or harass him, in violation of 15 U.S.C. § 1692d(5).
 - e. Misrepresenting the amount of the debt and failing to provide an explanation as to how the debt increased in violation of 15 U.S.C. § 1692e(2).
 - f. Failing to disclose that they are a debt collector trying to collect a debt in initial and/or subsequent communications with Plaintiff in violation of 15 U.S.C. § 1692e(11).
 - g. Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. §1692f.
 - h. The collection of additional amounts not expressly authorized in violation of 15 U.S.C. §1692f(1).

1	i. By acting in an otherwise deceptive, unfair and unconscionable manner
2	and failing to comply with the FDCPA.
3	WHEREFORE, Plaintiff, NANCY MELCHER, respectfully prays for a judgment as
4	follows:
5	a. All actual compensatory damages suffered pursuant to 15 U.S.C. §
6	1692k(a)(1);
7	b. Statutory damages of \$1,000.00 for each violation of the FDCPA pursuant
8	to 15 U.S.C. § 1692k(a)(2)(A);
9	c. All reasonable attorneys' fees, witness fees, court costs and other litigation
10	
11	costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
12	d. Any other relief deemed appropriate by this Honorable Court.
13	е.
14	DEMAND FOR JURY TRIAL
15	PLEASE TAKE NOTICE that Plaintiff, NANCY MELCHER, demands a jury trial in
16	this case.
17	
18	RESPECTFULLY SUBMITTED,
19	DATED: April 16, 2010 KIMMEL & SILVERMAN, P.C
20	By: /s/ Craig Thor Kimmel
21	Craig Thor Kimmel Attorney ID # 57100
22	Kimmel & Silverman, P.C. 30 E. Butler Pike
23	Ambler, PA 19002
24	Phone: (215) 540-8888 Fax: (215) 540-8817
25	Email: kimmel@creditlaw.com
	- 6 -

PO BOX 4938 Dept 11 TRENTON NI 08650



ALW Sourcing, LLC

1804 Washington Boulevard, Baltimore, MD 21230 Calls to or from this company may be monitored or recorded for quality assurance.

888-379-4884
OFFICE HOURS:
8AM-9PM MON THRU THURSDAY
8AM-5PM FRIDAY
8AM-12PM SATURDAY
Feb 5, 2010

10835-10380

HY7589 MELCHER L NANCE 3180 DOE RUN CHURCH RD COATESVILLE PA 19320-4459 CREDITOR: CAPITAL ONE BANK (USA), N.A. CREDITOR'S ACCOUNT #: 4121741554928866

CURRENT BALANCE DUE: \$ 2708.83

The named creditor has placed this account with our office for collection. You can settle this account for a lump sum payment of \$1625.30. This offer will remain valid for a minimum of 45 days from the date of this letter and may be extended for an additional period. Before making a settlement payment after 45 days from the date of this letter, please confirm with one of our representatives that this offer is still valid. Should you choose to accept this offer, please enclose this letter or a copy with your settlement and mark your check or money order with the account reference number listed below and that this is a settlement.

To assure proper credit, please put our internal account number HY7589 on your check or money order and enclose the lower portion of this letter, or a copy thereof, with your payment. If you need to speak to a representative, contact us at 888-379-4884.

Returned checks may be subject to the maximum fees allowed by your state.

You may also make payment by visiting us online at https://payments.alwsourcing.com. Your unique registration code is CHY75891-141204.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Should you choose not to accept this offer, your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in your agreement with the original creditor or as otherwise provided by state law.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This is a communication from a debt collector.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT (MAKE SURE ADDRESS SHOWS THROUGH WINDOW)

Our Account # Creditor's Acct# Current Balance Due
HY7589 4121741554928866 \$ 2708.83
MELCHER L NANCE

Payment Amount

\$

Check here if your address or phone number has changed and provide the new information helps.

Maks Payment To:

Illudabilishidabilishidabili ALW Sourcing, LLC PO BOX 4937 TRENTON NJ 08650-4937

ALWP E3 10380

011100HY7589800000070000000000002708830

